

**REMARKS**

Claims 2-4, 6-8, and 10-12 are pending in this application. Claims 2-4, 6-8, and 10-12 stand rejected. In light of the remarks set forth below, Applicant respectfully submits that each of the pending claims is in immediate condition for allowance.

Claims 2-4, 6-8, and 10-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 899,559 (“Nozaki”) in view of U.S. Patent No. 6,076,465 (“Vacca”). Applicant respectfully requests reconsideration and withdrawal of this rejection.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or combine references to arrive at the claimed subject matter. The prior art references must also teach or suggest all the limitations of the claim in question. See, M.P.E.P. § 706.02(j). A reference can only be used for what it clearly discloses or suggests. See, In re Hummer, 113 U.S.P.Q. 66 (C.C.P.A. 1957); In re Stencel, 4 U.S.P.Q.2d 1071, 1073 (Fed. Cir. 1987). Here, the references, whether taken individually or in combination, do not disclose or suggest the invention claimed by the Applicant.

The Office Action acknowledges that the Nozaki reference fails to disclose “calculation of the pattern width for said inspected pattern and for the reference data at the corresponding position by treating the number obtained by dividing said

grey level by the grey level step count as the width of the pattern developed in that pixel.”

In Vacca, linear sub-pixel interpolation is used to determine a close approximation to an edge of a line. This linear sub-pixel interpolation is used to determine the 50% point of the gradient (i.e., where the grey scale value is  $1/2$  the difference in the maximum grey scale level on each side of the pixel location located at the point of transition). Thus, Vacca fails to disclose that the width of the pattern is obtained by dividing the grey level by the grey level step count. As such, Vacca fails to cure the admitted deficiency in Nozaki. As such, Applicant respectfully submits that each of the pending claims in immediate condition for allowance.

Applicant has responded to all of the rejections and objections recited in the Office Action. Reconsideration and a Notice of Allowance for all of the pending claims are therefore respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Application No.: 09/735,840

Docket No.: M1912.0020/P020

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

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Respectfully submitted,

By 

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